D.B. Criminal Leave to Appeal No.40/2007

Date : 11.05.2007

HON'BLE MR. JUSTICE SATYA PRAKASH PATHAK
HON'BLE MR. JUSTICE DEO NARAYAN THANVI

Mr. V.R. Mehta, Public Prosecutor.
Mr. S.S. Dhillon for Mr. H.S.S. Kharlia for complainant.

Heard.

The submission of learned Public Prosecutor is that in this case three eye witnesses have not supported the prosecution case but PW3 Ratanlal has supported the prosecution version. It is further submitted that the learned trial court has erred in not placing reliance on his testimony. He further submits that accused Kalu in his statement recorded under Section 313 Cr.P.C. has denied the presence of PW3 Ratanlal at the spot, therefore, it cannot be said that incident in the present case is a concocted story. It is further submitted that as regards Mst. Surji Devi, though there is evidence but that is of weak nature and as the entire matter requires consideration, therefore, leave to appeal requires to be granted.

We have considered the submissions made before us and we find that matter requires consideration.

In above circumstances, taking into consideration all the facts and circumstances of the case, we find it to be a fit case to grant leave to appeal.

Accordingly, the leave to appeal is granted. The memo of leave to appeal be treated as memo of appeal. Bailable warrant in the sum of Rs.5,000/- each be issued against accused-respondents (1) Kalu Ram s/o Lichman Ram and (2) Mst. Surja Devi w/o Lichman Ram for their appearance before this court on 11th June, 2007and as & when called upon to do so.

(DEO NARAYAN THANVI), J. **(SATYA PRAKASH PATHAK), J.**